UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| IN RE "A MILLION LITTLE PIECES" LITIGATION | No. 06-md-1771<br>Hon. Richard J. Holwell |

**AFFIDAVIT OF BRIAN C. WITTER IN SUPPORT OF JOINT PETITION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF COSTS FILED BY DITOMMAS0 ♦ LUBIN**

**STATE OF ILLINOIS** )
) *ss*:
**COUNTY OF DUPAGE**

Brian C. Witter, being first duly sworn, deposes and says:

1. I act Of Counsel to the firm of DiTommaso ♦ Lubin, as Brian C. Witter, PC, and I am submitting this affidavit in support of our application for an award of attorneys' fees in connection with services rendered in the above-entitled action ("The Action") and the reimbursement of expenses incurred by us during the course of this litigation.

2. My firm acted as one of plaintiff's counsel in this class action. The tasks undertaken by my firm can be summarized as follows: the investigation and research of the claims, the drafting of the complaint, attendance at MDL hearing, consultation regarding strategy on litigation as well as settlement, review of all pleadings, motions, and transcripts related to each aspect of the case, review of preliminary approval motion, as well as notice program. I have detailed knowledge of the time, and assignments of each of plaintiff's counsel, and have examined their billing records and cost sheets in

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connection with my preparation of this Affidavit and the Motion for Preliminary Approval and related documents.

3. The chart attached hereto as Exhibit A is a detailed summary indicating the amount of time spent by the partners of my firm who were involved in this litigation, and the lodestar calculation based upon my firm's current billing rates for such personnel in the final year of employment by my firm. As reflected therein, my firm expended a total of 111.03 hours on this litigation from the inception of the case to the present, with a total lodestar amount of $60,958.33.[1] Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the partners in my firm included in Exhibit "A" are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other class action matters in this District.

5. The chart attached hereto as Exhibit "B" is my firm's itemization of un-reimbursed expenses incurred in the total amount of $1371.77 in connection with the prosecution of this litigation.

6. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred in connection with the prosecution of the litigation.

[1] The schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm, which are available for inspection upon request of the Court.

7. With respect to the standing of counsel in this case, attached hereto as Exhibit "C" is a brief biography of my firm and attorneys in my firm who were principally involved in this litigation.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of September, 2007.

**Brian C. Witter**

SWORN TO BEFORE ME
this 27th day of September 2007.

NOTARY PUBLIC

OFFICIAL SEAL
SANDRA A OBOS
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:03/20/08

**EXHIBIT "A"**

**IN RE "*A MILLION LITTLE PIECES*" LITIGATION 06-MD-1771**

**BILLING**

**FIRM NAME: DiTommaso ♦ Lubin**

**REPORTING PERIOD: January 1, 2006 through September 25, 2007**

| ATTORNEY NAME | TOTAL HOURS | HOURLY RATE | TOTAL LODESTAR |
|---|---|---|---|
| Brian C. Witter | 82.53 | $550.00 | $45,283.33 |
| Vincent L. DiTommaso | 25 | $550.00 | $13,750.00 |
| Peter S. Lubin | 3.5 | $550.00 | $1925.00 |
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| **TOTAL** | 111.03 | N/A | $60,958.33 |

# EXHIBIT "B"

## IN RE "*A MILLION LITTLE PIECES*" LITIGATION 06-MD-1771

## EXPENSES

**FIRM NAME: DiTommaso ♦ Lubin**

**REPORTING PERIOD: January 1, 2006 through September 25, 2007**

| TYPE OF EXPENSE | CUMULATIVE TOTAL |
|---|---|
| Computerized Legal Research (Westlaw, Lexis, Dialog, etc.) | $0 |
| Court Cost & Filing Fees | $310.00 |
| Court Reporters & Transcripts | $0 |
| Photocopying | $ 76.40 |
| Postage, Messenger & Express Mail, FedEx | $ 55.32 |
| Professional Services (Experts, Investigators, etc.) | $0 |
| Telephone & Fax | $ 1.20 |
| Travel, Hotels, Meals | $892.85 |
| Miscellaneous | $36.00 |
| **TOTAL** | $1371.77 |

**EXHIBIT "C"**

Vincent DiTommaso co-founded DiTommaso ♦ Lubin in 1987. Highly successful as a commercial, business and class action attorney, he has helped forge DiTommaso ♦ Lubin into a top-notch firm specializing in complex business litigation and class actions. He has prosecuted and defended numerous complex class, securities and other business cases with national impact for more than twenty years. He has been appointed a Special Assistant Attorney General to represent the Treasurer of the State of Illinois. The Chief Judge of DuPage County selected him as one of the first attorneys to be certified as a Court Appointed Mediator, and he has given seminars to train judges in mediation techniques. As a member of the DuPage Judicial Evaluation committee, he participated in the evaluation and selection of judges. He has also received commendations from the DuPage Legal Assistance Foundation for providing the Foundation with substantial awards from certain class actions. He received a BA from the University of Illinois in 1979, and his law degree with Honors from Chicago-Kent College of Law at the Illinois Institute of Technology.

Peter Lubin Firm co-founder brings a wealth of courtroom experience to DiTommaso ♦ Lubin's commercial and class-action litigation. He has been lead plaintiff's or defense counsel on numerous multi-million dollar class-action lawsuits with national impact. He has also handled a wide range of complex business lawsuits. Peter received an AB from Dartmouth College in 1980, and his law degree from the University of Chicago Law School in 1983. Along with Vincent DiTommaso, he teaches trial and litigation skills to law students at the University of Chicago Law School's Mandel Legal Aid Clinic. Peter was selected by the then Chief Judge of the Court of Appeals for the 7th Circuit to be one of the founding members of the Markey-Wigmore Inns of Court, and received commendations from the DuPage Legal Assistance Foundation for providing the Foundation with substantial awards from certain class actions. In 2007 Peter was named to the Visiting Committee at the University of Chicago Law School.

Brian Witter acts of counsel to the firm. He has a general civil and trial practice, including appeals, with an emphasis on business litigation, complex commercial cases, and class actions. He has extensive trial experience in state and federal courts, and in other fora, including arbitrations and administrative proceedings, and has tried many cases to verdict before both juries and judges. His practice also includes sub-specialties in commodities and futures law, trusts and estates litigation, consumer law, intellectual property, and family law. He was educated at Dartmouth College, where he received honors for academic and artistic achievement, after which he was awarded fellowships for post-graduate study in music composition and literature, allowing him to pursue a variety of studies over several years in Morocco, Sweden, and the United States. Mr. Witter attended the Loyola University of Chicago School of Law, where he studied with the philosopher and constitutional law scholar George Anastaplo, and received American Jurisprudence Awards in Jurisprudence, Constitutional History, and Constitutional law.

DiTommaso♦Lubin represents clients in all facets of business litigation and complex commercial matters, in cases involving breach of contract, partnership issues, securities, probate, employment, corporate control, copyrights and trademarks, and franchise and dealer termination matters. Our lawyers have extensive trial and appellate experience across a broad spectrum of corporate litigation disputes, for both plaintiffs and defendants, and have successfully represented individuals, small businesses, and large corporations.

DiTommaso♦Lubin represents both plaintiffs and defendants in class action litigation in both state and federal courts, and has done so successfully for two decades, in matters involving consumer fraud, unfair and deceptive business practices, and in a wide variety of state and federal statutory actions, under state consumer frauds acts, the FCRA, FDCPA, TCPA, TILA, and RICO, among others.